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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,106	08/15/2001	Kousaku Ito	NO1289US	8442

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EXAMINER

PWU, JEFFREY C

ART UNIT PAPER NUMBER

2143

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/929,106

Applicant(s)

ITO, KOUZAKU

Examiner

Jeffrey C. Pwu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☒ Claim(s) 6-10 is/are allowed.  
6) ☒ Claim(s) 1-5 and 11-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 and 21 recites the limitation "that other transmission device". There is insufficient antecedent basis for this limitation in the claim. It is unclear which "other" transmission device are the claims referrers to among a plurality of duplex transmission devices.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Baker, Jr. et al. (U.S. 4,949,373).

Baker, Jr. et al. teach:

A load dispersion-type duplex communication system, comprising:

- a plurality of duplexed transmission devices; (col.6, lines 20-24; "1,152 two-way or full-duplex communication channels, of which 1045 are available for voice/data traffic.")

- wherein each of said transmission devices is responsive to being in an allowable load state to perform a duplex operation with another transmission device and is further responsive to being in an overload state to perform a single and work-dividing operation with the other transmission device; (see "AUTOMATIC CALL DISTRIBUTION (ACD) LOAD BALANCING", col.27, line 20 – col.33, line 33; see col.31, lines 32-39 for overload state)
- wherein each of said transmission devices judges, for itself, whether that transmission device is in the allowable load state or in the overload state and in response to the judging, automatically switches between the duplex operation and the single and work dividing operation (see "Load Balancing Module"; col.29, line 35 -)
- wherein, whether each of said transmission devices is in the overload state or in the allowable load state is judged based on a data storage capacity of that transmission device; (see "Call Management Control System (CMCS)")

### ***Response to Arguments***

4. Applicant contends that the Baker reference does not disclose or suggest a transmission device that is responsive to being in an overload state to perform a single and work-dividing operation with another transmission.

In response to applicant's argument, Examiner asserts the Baker reference discloses a plurality of duplexed transmission devices; (col.6, lines 20-24; "1,152 two-way or full-duplex communication channels, of which 1045 are available for voice/data traffic.") wherein each of said transmission devices is responsive to being in an allowable load state to perform a duplex operation with another transmission device and is further responsive to being in an overload state to perform a single and work-dividing operation with the other transmission device; (see "AUTOMATIC CALL DISTRIBUTION (ACD) LOAD BALANCING", col.27, line 20 – col.33, line 33; see col.31, lines 32-39 for overload state)

Claim language, namely, "an allowable load state" and "an overload state", in fact, are broad enough to read on the teachings of Baker reference due to the fact that applicant never defined, in the claim, what is allowable or an overload. Thus Baker discloses the applicant's invention as recited in the claims.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey C. Pwu whose telephone number is 571-272-6798.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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